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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,766	12/11/2003	Yoshio Tomoda	03748/HG	1821

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EXAMINER

TRAN LIEN, THUY

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 09/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/734,766

Applicant(s)

TOMODA ET AL.

Examiner

Lien T. Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 7, terms such as " Karitou, Agegyouza and Yakigyouza" are indefinite because it is not clear the kind of the food the terms indicated.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-8, 10-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Elder et al.

Elder et al disclose a method for reducing acrylamide in thermally processed foods. Thermally processed means the foods are heated to temperature of at least 80 degree C, preferably at the temperature of 100-205 degree C. The ingredients used in the foods includes oats, rice, corn masa etc... Raw food ingredient such as potato is also used. One example is potato chips formed from raw potato slices and frying the slices. The process comprises the step of adding cation to the food product before heating. The cation used includes calcium lactate, calcium citrate or calcium malate. The level of acrylamide in the final processed food are reduced.(see paragraphs 0008 and 0011)

The reference discloses all the limitation of the cited claims.

Claims 1-4,6-8, 10-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Kuechle et al.

Kuechle et al disclose a method of preparing a dough to be cooked under heat. The dough comprises flour and nutritional supplements such as iron, calcium. The dough can be baked to prepare a variety of baked goods including, biscuits, dumplings, flat bread, crackers, pizza, doughnut, fritters, hushpuppies, pastry etc.. (see col. 3 lines 34-48, col. 9 lines 53-54))

Kuechle et al disclose a method of preparing food to be cooked under heat because the dough is used to prepare the food products listed and the products are cooked under heat. The recitation of " which is capable of decreasing acrylamide" in the preamble does not limit claim 1 because the body of the claim following the preamble is a self-contained description of the method and does not depend on the preamble for completeness. The metal ions disclosed in Kuechle et al are the same as the ones in claim 2. The foods are subjected to baking; some food such as hushpuppies and doughnut are fried which inherent meet the temperature limitation of claim 4. With respect to claims 6-7, the foods include baked confectionery, snack, and dumplings are foods havingsheet of dough made of cereal flour. With respect to claims 11,12, such properties are inherent in the Kuechle et al method because the same metal ions are added and the foods are subjected to heating.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Elder et al

Elder et al do not disclose forming semi-cooked food.

It would have been obvious to form semi-cooked food or fully-cooked food depending on the time one wants spend on reheating and the type of food product. A semi-cooked food will require longer reheating time.

Claims 5,9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuechle et al.

Kuechle et al do not disclose forming semi-cooked food and frying, stir-frying or roasting.

It would have been obvious to form semi-cooked food or fully-cooked food depending on the time one wants spend on reheating and the type of food product. A semi-cooked food will require longer reheating time. It would have been obvious to fry the product depending on the type of food made. Product such as fritters, doughnuts and hushpuppies are fried.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien T. Tran whose telephone number is 571-272-1408. The examiner can normally be reached on Tuesday, Thursday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cano Milton can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

September 18, 2005


LIEN TRAN
PRIMARY EXAMINER
Group 1702